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APPLICATION NO.	FI	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,498	(	01/18/2001	Kevin P. Cowan	VI/00-012 6536	
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GREGORY		DLEY	EXAMINER		
MEDRAD IN	AD DRIV	<del>-</del>	DESANTO, MATTHEW F		
INDIANOLA, PA 15051				ART UNIT	PAPER NUMBER
				3763	1.1
				DATE MAILED: 09/11/2003	- 11

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Expansions of time maple servisible useful the provision of 3° CPR 1.35(a), in no event, however, may a reply be timely filled Expansion of time may be expensive useful to provide a provision of the part of the reply appendix before the provision of the part of the reply specified above is less than thirty (30) days, a reply which the statulatory merival may be part of the reply specified above is less than thirty (30) days, a reply which the set or extended prediction.  Finally be reply which the set or extended prediction is than thirty (30) days, a reply which the set or extended prediction.  Finally be reply which the set or extended prediction is than the realing default on the mediating date of this communication, even if the set of the second prediction is the communication.  Finally be reply which the set or extended prediction of the set of the communication, even if the set of the second prediction is a provided and the second prediction is of the communication.  Provided the set of the set of the second prediction of the second prediction is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.49 is/are pending in the application.  4a) Of the above claim(s) 4.5,11,14.31 and 34 is/are withdrawn from consideration.  5) Claim(s) 1.3, 6-10, 12, 13, 32, 33, 35-49, is/are rejected.  7) Claim(s) 1.3 is/are allowed.  8) Claim(s) 1.3 is/are objected to.  8) Claim(s) 1.3 is/are objected to.  9) The specification is objected to by the Examiner.  Application Papers  Order of drawings in the provide provide provided in the provided pr								
## Examiner ## Art Unit ## Art Unit ## Atthew F DeSanto ## 3753  **The MAILING DATE of this communication appears on the cover sheet with the correspondence address **Period for Reply**  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercises of time may be preclable under the proteitions of 37 CFR 1.136(a). In no event, however, may a reply be times they filled the protein of the prot		Application No.	Applicant(s)					
Matthew F DeSanto The MalLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  It is period for reply specified store is less than birty (30) days, a reply within the statisticy minimum of thirty (30) says will be considered timely.  It is period for reply specified shows is less than birty (30) days, a reply within the statisticy minimum of thirty (30) says will be considered timely.  It is period for reply specified shows is less than birty (30) days, a reply within the statisticy minimum of thirty (30) says will be considered timely.  It is period for reply specified shows in maintain statisticy precided all agree and will expect St. (MONTH'S) from the anality date of this communication.  It is period for reply specified and so, the maintain glade of this communication, are sufficient than there meats after the maining date of this communication, are sufficient to sufficient the statistic precided to the communication.  Status  Status  Status  Status  Status  Status  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Of the above claim(s) 4.5.11.14.31 and 34 is/are withdrawn from consideration.  5) Claim(s)is/are allowed.  6) Claim(s)is/are allowed.  6) Claim(s)is/are objected to.  3) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  Application Tappers  9) The proposed drawing correction filed on is/are rejected.  11) The proposed drawing correction filed on is/are all accepted or bl objected to by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by		09/765,498	COWAN ET AL.					
- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Extensions of the marple a variable under the provisions of 2 CRF 1.136(a). In no event, however, may a reply be timely filled the provisions of 2 CRF 1.136(a). In no event, however, may a reply be timely filled the provision of the	Office Action Summary	Examiner	Art Unit					
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of three may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled  Extensions of three may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled  Extensions of three may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled  Extensions of three may be available under the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filled  Extension of three may be seen that the maintenance of the communication of the statutory minimum of thirty (39) days will be considered timely.  Failure to reply within the store careful depind from giving days of this communication.  Failure to reply within the store careful depind from giving days of the communication.  Failure to reply within the store careful depind on giving days.  Failure to reply within the store careful depind on giving days.  Responsive to communication(s) filled on 17 June 2003  2a) With a action is FINAL.  2b) This action is non-final.  3) Ince this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-49 Is/are pending in the application.  4a) Of the above claim(s) 4,511,14-31 and 34 Is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) 3-6.0.12,13,32,33,35-49 Is/are rejected.  7) Claim(s) is/are objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The drawing(s) filled on is/are: a) accepted or b of objected to by the Examiner.  Application Papers  10) The drawing(s) filled on is/are: a) accepted or b of objected to by the Examiner.  If approved, corrected drawings are requir								
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be evaluate under the provision of 3 of ER 1.13(e). In no event, however, may a reply be timely filed after SX (5) MONTHS from the melling date of this communication.  It has princed may be precised by the melling date of this communication.  It has princed may be precised by the melling date of this communication.  It has princed may be precised by the melling date of this communication.  Any reply received by the Office the than these montals after the mailing date of this communication, even if timely lifed, may reduce any seasoned patent term objectived by the Office the than these montals after the mailing date of this communication, even if timely lifed, may reduce any seasoned patent term objectived by the Office the than these montals after the mailing date of this communication, even if timely lifed, may reduce any seasoned patent term objectived by the Office the than these montals after the mailing date of this communication, even if timely lifed, may reduce any seasoned patent term objectived by the Office than the mailing date of this communication.  Any reply received by the Office the than these montals after the mailing date of this communication, even if timely lifed, may reduce any seasoned patent term objectived by the object of this communication.  It is action is FINAL.  Disposition of Cialma  Alpic Claim(s) 1-49 is/are pending in the application.  4a) Of the above claim(s) 4.5.11.14-31 and 34 is/are withdrawn from consideration.  5b) Claim(s) 1-49 is/are allowed.  6) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  7b) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  7claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  8c) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  8c) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  8c) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  8c) Claim(s) 1-3.6-10.12, 13, 32, 33, 35-49, is/are rejected.  9c) The drawing(s) filed on 1-3.6-	··							
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Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s)								
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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 2. Claims 1, 2, 3, 6, 7, 8, 9, 10, 12, 13, 32, 33, 35, 36, 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Aasmul et al. (USPN 6,533,183).

Aasmul et al. discloses a length of material that can be used on syringes that consists of indicators that represent a code when a light beam (electromagnetic energy) is transmitted and reflected from the length of material (notches and grooves) therefore, providing information about the syringe. (Figures 1,2,3,4,5 and Paragraph [0002], [0003], [0011], [0041], and entire reference).

#### Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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- 4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
- 5. Claims 1-3, 6-10, 12, 13, 32, 33, 35-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hitchins et al. (USPN 5,944,694) and further in view of Aasmul et al. as applied to claims 1-3, 6-10,12, 13, 32, 33, 35 37 above.

Hitchins et al. disclosed syringe for use with powered injector to inject fluid into a patient comprising a syringe with a plurality of indicators along a length of material of the syringe wall, wherein the syringe comprises a body, a plunger, a mounting flange, a drip flange, but fails to fully disclose the workings of how the indicator and the encoder reflect and refract the light beams to form the code that provides information about the syringe.

Aasmul et al. discloses a length of material that refracts and reflects light to provide information about the syringe. (Claims 1-19 and entire reference)

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Hitchins et al. with Aasmul et al., because Aasmul et al. teaches that adding a length of material comprising notches and grooves and

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wherein the length of material allows light to be reflected and refracted; provides for a more stable and accurate way of coding information regarding the syringe, such as orientation and content. It is also well known in the art to add indicators to a syringe barrel. (See USPN 5,954,700)

Therefore, it would have been obvious to combine Hitchins et al. with Aasmul et al. to obtain the specified invention in claims 1-3, 6-10, 12, 13, 32, 33, 35-49.

## Response to Arguments

- 6. Applicant's arguments filed 6/17/03 have been fully considered but they are not persuasive.
- 7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. propagate [special definition], and how the length of material works [how the indicators work through reflection and refraction]) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- 8. The applicant argues that Aasmul et al. does not disclose a length of material that "propagated" light. The examiner interprets "propagated" as broadly as possible and thus is interpreting "propagated" as to transmit information and thus Aasmul et al. teaches a length of material (the bars) transmit information and thus read on the applicant's claims. If the applicant wishes to use a special definition for propagate, then the examiner would suggest that the applicant defines this definition in the claims.

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#### Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Matthew DeSanto
Art Unit 3763

September 5, 2003

MICHAEL J. HAYES
FRIMARY EXAMINER

Michael Affayer